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Subject: Federal judge finds coal company liable for W.Va. selenium discharges

MINING:

Federal judge finds coal company liable for W.Va. selenium discharges

Manuel Quiñones, E&E reporter

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A federal court judge ruled yesterday that a coal company was liable for discharges of the chemical element selenium from a West Virginia mine.

At issue in the lawsuit brought by environmental groups are discharges from Alpha Natural Resources Inc. subsidiary Marfork Coal Co.'s Brushy Fork slurry impoundment.

U.S. District Court Judge Robert Chambers for the Southern District of West Virginia agreed with groups that water sampling from October and December 2012 proved liability.

Chambers wrote that "by a preponderance of the evidence, that Defendant was in violation of West Virginia's water quality standards -- and, consequently, its permits -- during December 2012."

Selenium can harm aquatic life, a key point of contention in environmental groups' lawsuits against coal mining companies.

Chambers held a trial to hear arguments in the case, which now moves to the remedy and penalty phase. The decision is the latest in a string of adverse rulings against coal companies. Some are under appeal.

Separately, last month Alpha agreed to a \$27.5 million settlement with the Obama administration and some states over pollution allegations from company mining operations. That deal is pending approval.

"Our combined total water quality compliance rate for 2013 was 99.8 percent," Alpha Senior Vice President Gene Kitts said at the time. "That's a strong record of compliance, particularly considering it's based on more than 665,000 chances to miss a daily or monthly average limit."

Environmental groups have questioned that settlement. The Pennsylvania-based Citizens Coal Council, which is suing Alpha over water releases from a mine there, said the deal is "deficient in key respects and is therefore not in the public interest."

Hardrock lawsuit

In U.S. District Court in Idaho this week, the Idaho Conservation League and the Nez Perce Tribe sued the U.S. Forest Service for giving Midas Gold Inc. permission to explore within Payette and Boise national forests in Valley County, Idaho.

The groups argue that the Forest Service, as well as the Fish and Wildlife Service and the National Oceanic and Atmospheric Administration's fisheries office, failed to take into account the health of waterways and vulnerable species.

Midas CEO Stephen Quin said in a recent statement that the company and its consultants "have been evaluating numerous aspects of the Golden Meadows Project in order to optimize outcomes from an environmental, sustainability, social, technical and financial perspective."

Groups in Idaho, including the Conservation League, have also been active in suing to block development of the CuMo molybdenum mining project in the Boise National Forest.

Uranium protest

In South Dakota, the Ogala Sioux Tribe is protesting the Nuclear Regulatory Commission's decision this month to license Powertech Uranium Corp.'s Dewey-Burdock project.

Despite a sluggish uranium market, Energy Fuels Inc. announced this week that it would keep its Pinenut mine near the Grand Canyon open into 2015. The company will store the ore on the surface pending better market conditions.

The Grand Canyon Trust and the Havasupai Tribe expressed concern about the practice. They have also asked the Bureau of Land Management for more scrutiny of uranium mines in the area.

"We are opposed to uranium mining on the Coconino Plateau because of the potential irreversible harm it may cause," the tribe wrote in an April 14 letter to Interior Secretary Sally Jewell.

The Obama administration's ban on new mining claims around the Grand Canyon still stands. Litigation from mining companies continues in U.S. District Court for the District of Arizona.

Also today, NRC announced it had approved the license for Strata Energy Inc.'s Ross uranium mining project in Crook County, Wyo. The Cowboy State is the nation's leader in uranium extraction.